

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RUSSELL J. GETTEMY,
Plaintiff,
v.
OMEGA RMS LLC, et. al.,
Defendant.

No. 2:23-cv-01948-DAD-CKD PS

FINDINGS AND RECOMMENDATIONS

Plaintiff, proceeding pro se, paid the filing fee for this action, which proceeds on the First Amended Complaint (FAC, ECF No. 32) against several defendants. Plaintiff's claims allege violations of the Fair Credit Reporting Act (FCRA) and Fair Debt Collection Practices Act (FDCPA). Before the court is defendant Omega's unopposed motion for summary judgment. (ECF No. 52.) For the reasons set forth below, the undersigned will recommend that Omega's motion be granted.

In the FAC, plaintiff alleges that Omega is a debt collector that provides information to credit reporting agencies. He alleges that his TransUnion credit report lists four collection accounts and that Omega was one source of that information. He alleges that Omega is trying to collect a debt from Prosper Trading Academy (Prosper), where plaintiff was at one time enrolled; however, plaintiff alleges that he cancelled the class and does not owe Prosper money. Plaintiff alleges that Omega violated federal law by attempting to collect a debt he did not owe and by

1 failing to investigate the disputed collection report.

2 On December 16, 2024, Omega filed a motion for summary judgment (ECF No. 52),
3 which plaintiff did not oppose. Omega argues that the undisputed evidence shows that plaintiff
4 owes a debt to Prosper for unpaid tuition under an installment agreement plaintiff entered with
5 Prosper in June 2019. The undisputed facts establish that plaintiff attended classes at Prosper and
6 made multiple auto-payments on the tuition debt, but after the credit card he provided was
7 declined, he made no further payments. In September 2020, the unpaid balance was referred to
8 Omega for collection. See ECF No. 52-2 (Omega's Statement of Undisputed Facts). Omega
9 argues that the undisputed facts show that it violated no federal statutes and that plaintiff's claims
10 against it are meritless. Omega further asserts that, because plaintiff failed to respond to Omega's
11 Requests for Admissions about his claims, the above facts are deemed admitted. See Fed. R. Civ.
12 P. 36(a)(3).

13 According to Rule 56(a), this Court "shall grant summary judgment if the movant shows
14 that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a
15 matter of law." Fed. R. Civ. P. 56(a). Material facts are those that may affect the case's outcome.
16 See Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986). A dispute about a material fact
17 is genuine if there is enough evidence for a reasonable jury to return a verdict for the nonmoving
18 party. See id. at 49. At the summary judgment stage, evidence must be viewed in the light most
19 favorable to the nonmoving party and all justifiable inferences must be drawn in the non-movant's
20 favor. See Johnson v. Poway Unified Sch. Dist., 658 F.3d 954, 960 (9th Cir. 2011).

21 Here, Omega presents undisputed evidence that plaintiff owed the debt at issue, such that
22 Omega violated no federal law in attempting to collect it. As there is no genuine dispute of
23 material fact, Omega is entitled to summary judgment.

24 For the foregoing reasons, IT IS HEREBY RECOMMENDED that:

- 25 1. Omega's motion for summary judgment (ECF No. 52) be GRANTED; and
26 2. Defendant Omega be dismissed from this action.

27 These findings and recommendations are submitted to the United States District Judge
28 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days

1 after being served with these findings and recommendations, any party may file written
2 objections with the court and serve a copy on all parties. Such a document should be captioned
3 “Objections to Magistrate Judge’s Findings and Recommendations.” Failure to file objections
4 within the specified time may waive the right to appeal the District Court’s order. Martinez v.
5 Ylst, 951 F.2d 1153 (9th Cir. 1991).

6 Dated: April 17, 2025

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8 CAROLYN K. DELANEY
9 UNITED STATES MAGISTRATE JUDGE
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